

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ORANGE

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STEPHANIE GRABOWSKI,

Plaintiff,

**COMPLAINT**

-against-

NEW YORK STATE OFFICE OF FAMILY AND CHILDREN'S  
SERVICES; COUNTY OF ORANGE; ORANGE COUNTY  
DEPARTMENT OF SOCIAL SERVICES; DOES 1-10,

Index No. \_\_\_\_\_

Defendants.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, STEPHANIE GRABOWSKI, by and through undersigned counsel, respectfully  
shows to this Court and alleges as follows:

**Introduction**

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. The Plaintiff, when she was a minor, was sexually assaulted on numerous occasions over the course of years while in foster care, by foster parents, caretakers and adoptive family members, in Orange County, New York.

**Parties, Jurisdiction and Venue**

1. - Plaintiff Stephanie Grabowski ("Stephanie") is a citizen and resident of the State of New York.
2. Defendant New York State Office of Children and Family Services ("OCFS") is a state agency organized and existing under the laws of the State of New York. OCFS was formed

by Executive Order pursuant to the Welfare Reform Act of 1997 as a merger of the New York Division for Youth and Department of Social Welfare.

3. Defendant County of Orange is a political subdivision of the State of New York. At all relevant times, County of Orange was responsible for the care and safety of children in foster care within the County.

4. Defendant Orange County Department of Social Services (DSS) is a division or agency of the County of Orange. At all relevant times, DSS was responsible for the foster care system in place for the relief and protection of children in Orange County who were under the supervision or wards of the State. Its duties included, inter alia, placement of children in foster care, supervision of foster homes, management of foster care, and adoption of children from foster care.

5. Does 1-10 are independent contract agencies delegated responsibilities for the care and safety of children in the foster care system in Orange County. Plaintiff names Does 1-10 in accordance with CPLR § 1024, as such agencies are unknown parties who have not to date been identified despite Plaintiff's due diligence.

6. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

7. Personal jurisdiction lies over Defendants as they are present and domiciled in the State of New York.

8. Venue of this action lies in Orange County as one or more of the Defendants are citizens and residents of Orange County, and/or a substantial part of the events giving rise to this claim occurred in Orange County.

**Defendants Owed Duties to Plaintiff as a Child in Foster Care**

9. Plaintiff, a resident of Orange County, became a ward of the State and placed in foster care at the age of approximately six weeks, in or about 1982. As a child in foster care, she was in the temporary legal custody of the County of Orange and DSS.

10. County of Orange and DSS were in a special relationship with Plaintiff as she was a child in their custody. Under this special relationship, they had a duty to protect Plaintiff from foreseeable harms, including sexual abuse and assault in foster care.

11. OCFS or its predecessors, at all relevant times, were responsible for foster care throughout New York State, including compliance with the Federal and State Constitution, federal statutes, and state statutes and regulations, particularly those concerning the safety of children in foster care, protection of their right to bodily integrity, and their right to be free from sexual assault and abuse. These duties were shared with County of Orange and DSS.

12. Defendants County of Orange and DSS at all relevant times had a duty to Plaintiff in loco parentis, under which they were required to act as a reasonable parent would act to keep Plaintiff secure and safe from foreseeable harms.

13. Upon information and belief, County of Orange and/or DSS contracted with Does 1-10 under which it delegated responsibilities for the care and safety of children in foster care, including Stephanie.

14. The Defendants each had the following duties with regard to children in foster care, including Stephanie:

- a. To evaluate and investigate all reports of child abuse and/or neglect;
- b. To visit children in foster home placements in accordance with the requirements for children in custody;

- c. To investigate all relevant conditions of the foster home that might affect the child;
- d. To report any violations of the home's operating license or requirements;
- e. To ensure that foster children residing in a foster home are supervised at all times by authorized adult caregivers;
- f. To continually assess the adequacy and safety of a child's particular placement;
- g. To make appropriate referrals for evaluations or services, and provide each child in foster care with quality services to protect his or her safety and health;
- h. To establish all necessary plans of care;
- i. To report all known incidents of sexual abuse or aggression occurring in the foster home;
- j. To ensure that foster children were not left in dangerous conditions, including being subjected to sexual, emotional or physical abuse.
- k. To ensure that each child in foster care is not maintained in custody longer than is necessary to accomplish the purpose of custody;
- l. To provide each child in foster care who has been freed for adoption with meaningful and appropriate adoption services, including evaluation of the child's placement and pre-placement needs, recruitment of and home study for prospective adoptive parents, placement planning, supervision and post-adoption services; and
- m. To ensure that children are provided a non-threatening environment for candid assessments of their living situation with care managers or other supervisory personnel, to assure that incidents of abuse, misconduct or violations of rights may be reported without fear of repercussion or not being believed.

15. The foregoing duties and responsibilities for each of the Defendants was non-delegable.

**The Sexual Assaults of Plaintiff**

16. In foster care, Plaintiff was placed in the home of Raymond and Roberta Grabowski. There, Plaintiff was sexually and physically abused and tortured repeatedly over a period of years.

17. Plaintiff was adopted by Raymond and Roberta Grabowski when she was approximately six years old, after spending over five years in their foster care under the supervision of Defendants.

18. Mrs. Grabowski would make Plaintiff wear a dress and “doll her up”. She would then send Plaintiff into the bedroom alone with Mr. Grabowski. He was an alcoholic and would have Plaintiff bring him alcohol. He would force Plaintiff to lie in bed next to him and would then sexually assault her. The sexual assaults included, for example, digital penetration. Upon information and belief, Mrs. Grabowski knew that Mr. Grabowski was sexually assaulting Stephanie, and she acted to facilitate these assaults.

19. Plaintiff was also sexually assaulted by the Grabowskis’ grandson, also after her foster mother had her wear a dress. These sexual assaults included, for example, digital penetration.

20. Plaintiff was also sexually assaulted in the home by her adoptive brother. These sexual assaults included, for example, digital penetration. Plaintiff reported one sexual assault to Mrs. Grabowski, who responded by beating Plaintiff.

21. Whenever Plaintiff’s case manager, social worker or other care supervisor would come to the home, Plaintiff would only be spoken to or interviewed in the presence of Mrs.

Grabowski. Mrs. Grabowski prepared Plaintiff for these encounters, as she threatened Plaintiff with grave harm if she were to disclose the abuse to anyone. The home visits as a result were not reasonably calculated to discover any abuse or misconduct in the home.

22. Plaintiff disclosed the sexual abuse to a counselor at her school. Plaintiff was not removed from the home, however, and Mrs. Grabowski physically assaulted Plaintiff for having reported the abuse.

23. Plaintiff continued to report incidents of abuse, including sexual abuse, to school personnel. When she was about nine years old, upon information and belief, there was a judicial determination that the Grabowskis committed abuse and neglect of Stephanie, and their parental rights were terminated. Stephanie was removed from the Grabowski home and placed back in the foster care system.

#### **Breaches of Duty**

24. At all relevant times, there were substantial and serious structural flaws in the foster care system designed and/or implemented by Defendants, and as a result Plaintiff was repeatedly sexually assaulted in the home over a period of years.

25. At all relevant times, Defendants failed to ensure that case workers were adequately trained and supervised. In the exercise of reasonable care, case workers knew or should have known that Plaintiff was being sexually abused and assaulted in the home. They failed to adequately respond or investigate.

26. At all relevant times, Defendants failed to establish and implement meaningful or reasonable care plans or service plans for Plaintiff which would have kept her safe from sexual abuse and assault.

27. At all relevant times, the Defendants' caseworkers had an unmanageable caseload, and as a result failed to exercise the appropriate level of care and supervision necessary for Plaintiff's safety and protection.

28. At all relevant times, Defendants did not ensure that Plaintiff received regular caseworker visits, or these visits were perfunctory and not designed to discover abuse or violations of rights or regulations in the home.

29. At all relevant times, Defendants failed to act with reasonable care in supervising Plaintiff in the Grabowski home, assuring she was secure and safe from sexual abuse, acting to protect her rights to bodily integrity and to be free from sexual assault, and enforcing rules and regulations to protect Plaintiff.

30. Upon information and belief, Defendants knew or should have known that the Grabowski's home was unfit and posed a danger of sexual abuse or assault to Plaintiff. Plaintiff should never have been assigned to that home; once she was so assigned, she should have been removed from the home for her safety and well-being in the exercise of reasonable care.

31. Upon information and belief, Defendants knew or should have known that the Grabowskis were unfit adoptive parents, and Defendants failed to perform an adequate home study, evaluation of the adoptive parents, and/or post-adoptive supervision.

32. Defendants breached the duties set forth in paragraph 14(a)-(m) above.

33. At all relevant times, Defendants had inadequate policies and procedures to protect children in the foster care system from foreseeable harms in the home, particularly sexual abuse.

34. At all relevant times it was foreseeable that the foregoing breaches of duties would result in the sexual assaults of Plaintiff in the home.

35. The foregoing breaches of duty directly and proximately caused Plaintiff to be sexually assaulted on multiple occasions in the home over a period of years.

**Nature of Conduct Alleged**

36. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

37. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendant acted with reckless disregard for the safety of Plaintiff.

**COUNT I**  
**NEGLIGENCE**  
*(Against OCFS)*

38. Plaintiff Stephanie repeats and realleges Paragraphs 1 through 37 above.

39. As a direct and proximate result of negligence in the supervision and implementation of Plaintiff's custodial care, for which OCFS's duty is non-delegable, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

40. The acts and conduct for which OCFS is responsible show a reckless or willful disregard for the safety and well-being of Stephanie and other children.

WHEREFORE, Plaintiff demands judgment against OCFS for compensatory damages,



special damages, costs and such other and further relief as this Court deems proper.

**COUNT II**  
**NEGLIGENCE**  
*(Against County of Orange)*

41. Plaintiff Stephanie repeats and realleges Paragraphs 1 through 37 above.

42. As a direct and proximate result of negligence in the supervision and implementation of Plaintiff's custodial care, for which the duties of County of Orange are non-delegable, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

43. The acts and conduct for which County of Orange is responsible show a reckless or willful disregard for the safety and well-being of Stephanie and other children.

WHEREFORE, Plaintiff demands judgment against County of Orange for compensatory damages, special damages, costs and such other and further relief as this Court deems proper.

**COUNT III**  
**NEGLIGENCE**  
*(Against DSS)*

44. Plaintiff Stephanie repeats and realleges Paragraphs 1 through 37 above.

45. As a direct and proximate result of negligence in the supervision and implementation of Plaintiff's custodial care, for which the duties of DSS are non-delegable, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

46. The acts and conduct for which DSS is responsible show a reckless or willful disregard for the safety and well-being of Stephanie and other children.

WHEREFORE, Plaintiff demands judgment against and DSS for compensatory damages, special damages, costs and such other and further relief as this Court deems proper.

**COUNT IV**  
**NEGLIGENCE**  
*(Against Does 1-10)*

47. Plaintiff repeats and realleges Paragraphs 1 through 37 above.

48. As a direct and proximate result of negligence of Does 1-10 in the supervision and implementation of Plaintiff's custodial care, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

49. The acts and conduct for which Does 1-10 are responsible show a reckless or willful disregard for the safety and well-being of Stephanie and other children.

WHEREFORE, Plaintiff demands judgment against Does 1-10 for compensatory damages, special damages, costs and such other and further relief as this Court deems proper.

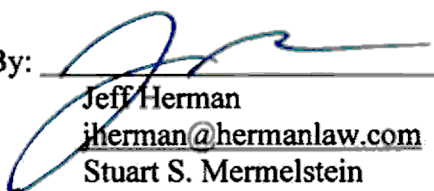
**DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial in this action.

Dated: New York, New York  
October 31, 2019

Respectfully submitted,

HERMAN LAW  
434 W. 33<sup>rd</sup> St., Penthouse  
New York, NY 10001  
Tel: 212-390-0100

By:   
Jeff Herman  
[jherman@hermanlaw.com](mailto:jherman@hermanlaw.com)  
Stuart S. Mermelstein  
[smermelstein@hermanlaw.com](mailto:smermelstein@hermanlaw.com)  
Daniel G. Ellis  
[dellis@hermanlaw.com](mailto:dellis@hermanlaw.com)